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Letter dated 21 June 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from Lebanon submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 16 June 2006 from the Permanent Mission of Lebanon to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

[Original: Arabic]

The Permanent Mission of Lebanon to the United Nations in New York presents its compliments to the Counter-Terrorism Committee Executive Directorate and, with reference to its letter dated 31 January 2006, has the honour to transmit herewith the following documents:

- The fifth report on counter-terrorism submitted by Lebanon pursuant to paragraph 6 of resolution 1373 (2006);
- The reply of the Lebanese Government to the questions relating to measures adopted for the implementation of resolution 1624 (2005).

The Permanent Mission of Lebanon takes this opportunity to convey to the Directorate the renewed assurances of its highest consideration.

The Lebanese Republic
Ministry of Foreign Affairs and Emigrants
Directorate of Political and Consular Affairs

Fifth report of Lebanon

1. Implementation measures

1.2 What plans does Lebanon have to specifically criminalize the provision or collection of funds with the intent that they should be used in the commission of a terrorist act, regardless of where the act is intended to take place and whether it is attempted or completed?

Reply (Provided by the Banque du Liban, the report of which is annexed hereto)

On 20 October 2003, the National Assembly passed Act No. 533, pursuant to which the Lebanese Penal Code enacted on 1 March 1943 was supplemented by article 316 bis, the text of which is as follows:

Article 316 bis:

Financing of terrorism

Anyone who, by direct or indirect means, intentionally finances or contributes to the financing of terrorism, terrorist activities or terrorist organizations shall be punished by a term of hard labour of not less than three years and not more than five years, and by a fine of not less than the amount paid [for financing] and not more than three times that amount.

Article 1 of the Money-Laundering Act No. 318/2001 was also repealed by Act No. 547/2003, pursuant to which it was replaced with another provision stipulating that, for the purposes of the Act, "illegal assets" means assets derived from the offence of financing or contributing to the financing of terrorism, terrorist activities or terrorist organizations in accordance with the meaning of terrorism as defined in Lebanese law.

Note: The text of Act No. 553 of 20 October 2003 is set forth in annex 1.1 of the report of the Banque du Liban and the text of Act No. 547 of 20 October 2003, which replaces article 1 of Act No. 318/2001, is set forth in annex 2.1 of the report.

1.3 The Committee takes note of Lebanon's statement that a new draft amendment to the Money-Laundering Act was to be submitted to the National Assembly (formerly the Chamber of Deputies) in 2003-2004 (third report, p. 3) and would appreciate an update on the status of this draft amendment.

Reply: (Provided by the Banque du Liban, the report of which is annexed hereto)

On 20 October 2003, the National Assembly passed Act No. 547, which repealed article 1 of the Money-Laundering Act No. 20 April 2001, replacing it with the following text:[1]

[1] Before the amendment, article 1 provided that:
For the purposes of this Act, "illegal assets" means any assets derived from any of the following offences:
1. Cultivation or manufacture of, or trafficking in, narcotic drugs;

New article 1:

For the purposes of this Act, "illegal assets" means any assets derived from any of the following offences:

1. Cultivation or manufacture of, or trafficking in, narcotic drugs;

2. Acts committed by criminal associations, as provided for in articles 335 and 336 of the Penal Code and internationally regarded as organized crimes;

3. The terrorist offences provided for in articles 314, 315 and 316 of the Penal Code;

4. Financing or contributing to the financing of terrorism, terrorist activities or terrorist organizations in accordance with the meaning of terrorism as defined in the Lebanese Penal Code;

5. Illegal trafficking in arms;

6. The theft or embezzlement of public or private funds or the appropriation of such funds by fraudulent means, forgery or abuse of a position of trust in any of the banks, financial institutions and establishments enumerated in article 4 of the present Act or in matters within the scope of their activity;

7. The counterfeiting of currency, or of credit, debit or charge cards, or of public securities or commercial bonds, including cheques.

1.4 Could Lebanon please provide examples of cases in which, after auditing bank accounts to or from which funds had been transferred, the Special Investigation Commission decided to place an immediate freeze on an account balance (fourth report, p. 5)?

Reply: (Provided by the Banque du Liban, the report of which is annexed hereto)

The Banque du Liban entrusted us with three cases of persons suspected of involvement in terrorist activities whose accounts with a number of banks operating in Lebanon were frozen after investigation by the Special Investigation Commission of the transactions suspected of constituting terrorist financing offences. These three cases are set forth in annexes 1.4, 2.4 and 3.4 of the letter from the Banque du Liban.

1.5 The Committee would welcome an example of a suspicious transaction report (STR) by the financial monitoring officer of a bank or financial institution. Are non-financial intermediaries such as lawyers, accountants and notaries public also subject to a reporting obligation?

Reply: (Provided by the Banque du Liban, the report of which is annexed hereto)

The Banque du Liban has no STRs by the financial monitoring officer of any agent banks or financial institutions in Lebanon that relate to the financing of terrorism.

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2. The acts of conspiracy provided for in articles 335 and 336 of the Penal Code and internationally regarded as organized crimes;
3. The terrorist offences provided for in articles 314, 315 and 316 of the Penal Code;
4. Illegal trafficking in arms;
5. The theft or embezzlement of public or private funds or the appropriation of such funds by fraudulent means for which Lebanese law imposes a criminal penalty;
6. The counterfeiting of currency or public securities.

As to whether lawyers, accountants and notaries public are subject to a reporting obligation, article 4 of Act No. 318/2001 mentions a non-exhaustive number of institutions and companies that are under obligation to report details of operations suspected of concealing money-laundering. It does not explicitly mention lawyers, accountants or notaries public but does state that such persons are liable to the penalties stipulated in article 13 of the Act should they fail to report operations suspected of concealing money-laundering operations.

We should point out that, under the regulations issued by the Banque du Liban on the monitoring of financial and banking transactions in order to combat money-laundering, monitoring officers in banking institutions are required to report transactions suspected of concealing money-laundering, which include terrorist financing.

1.6 The fourth report makes various references to Act No. 318/2000 and Act 318/2001, both on money-laundering. Are these two different acts? The Committee would appreciate a copy of the(se) instrument(s).

Reply: (Provided by the Banque du Liban, the report of which is annexed hereto)

Act No. 318/2000 is the same as Act 318/2001. Act No. 318/2000 was a typographical error that appeared in one of the items of correspondence. As stated at the beginning of the reply to question 1.3, the National Assembly passed Act No. 318 dated 20 April 2001. Article 1 of Act No. 318 was then replaced pursuant to Act No. 547 dated 20 October 2003. In its letter annexed hereto, the Banque du Liban sets forth Act No. 318 of 20 March 2001 and Act No. 547 of 20 October 2003.

1.7 Could Lebanon please provide a list of investigations by its financial intelligence unit (FIU), the Special Investigation Commission?

Reply: (Provided by the Banque du Liban, the report of which is annexed hereto)

In its report annexed hereto, the Banque du Liban sets forth a list of cases relating to terrorism and the financing of terrorism submitted to and investigated by the Special Investigation Commission.

1.8 What is the specific mandate of the Special Investigation Commission? Does it include matters related to the financing of terrorism?

Reply: (Provided by the Banque du Liban, the report of which is annexed hereto)

Article 6, paragraph 4, of Act No. 318 provides that the functions of the Special Investigation Commission are to conduct investigations in connection with transactions suspected of constituting money-laundering offences, determine the seriousness of the direct and circumstantial evidence that one or more such offence has been committed and decide whether to lift banking secrecy and ultimately freeze the suspected accounts.

Article 1 of Act No. 318/2001 (as amended pursuant to Act No. 547 dated 20 October 2003) also provides that, for the purposes of the Act, "illegal assets" means assets derived from the offences specifically listed in that article, including offences involving the financing of terrorism.

Article 1 provides that:

> For the purposes of this Act, "illegal assets" means any assets derived from any of the following offences:

1. Cultivation or manufacture of, or trafficking in, narcotic drugs;

2. Acts committed by criminal associations, as provided for in articles 335 and 336 of the Penal Code and internationally regarded as organized crimes;

3. The terrorist offences provided for in articles 314, 315 and 316 of the Penal Code;

4. Financing or contributing to the financing of terrorism, terrorist activities or terrorist organizations in accordance with the meaning of terrorism as defined in the Lebanese Penal Code;

5. Illegal trafficking in arms;

6. The theft or embezzlement of public or private funds or the appropriation of such funds by fraudulent means, forgery or abuse of a position of trust in any of the banks, financial institutions and establishments enumerated in article 4 of the present Act or in matters within the scope of their activity;

7. The counterfeiting of currency, or of credit, debit or charge cards, or of public securities or commercial bonds, including cheques.

1.9 The Committee takes note of the information provided by Lebanon regarding the regulation of alternative money transfer systems and would appreciate a copy of the relevant provisions and details on their scope of application.

Response (provided by the Banque du Liban — report annexed):

Reference has been made in previous reports to the fact that alternative money transfer systems such as hawala, for instance, are non-existent in Lebanon and that money transfer operations are governed by the laws and regulations in force in Lebanon. Such operations may be effected only through banks and financial institutions by prior authorization of the Banque du Liban, which has the discretionary power to grant or deny such authorization depending on whether it deems it to be in the public interest.

Article 1, together with article 3 of the Banque du Liban's Basic Decision No. 7548 of 30 March 2000 provides that electronic transfers are to be made through banks, financial institutions, financial intermediary institutions, investment companies, money-changing establishments, or any other institution that has obtained prior authorization from the Banque du Liban.

In the annexed report, the Banque du Liban has provided a copy of the legal and regulatory provisions requiring banking institutions that conduct transfers to obtain prior authorization from the Banque du Liban. These include:

- Banque du Liban Report Annex 9.1: Basic Decision No. 7548 of 30 March 2000 on electronic financial and banking operations;
- Banque du Liban Report Annex 9.2: Articles 128-131 of the Code of Money and Credit, relating to conditions for establishing banks in Lebanon;
- Banque du Liban Report Annex 9.3: Act No. 234 of 10 June 2000 regulating the financial intermediary profession;
- Banque du Liban Report Annex 9.4: Act No. 347 of 6 August 2001 regulating the money-changing profession in Lebanon;

- Banque du Liban Report Annex 9.5: Act No. 706 of 9 December 2005 (regulating collective investment schemes in securities and other financial instruments);

- Banque du Liban Report Annex 9.6: Articles 208, 209 and 210 of the Code of Currency and Credit, which provides for administrative penalties applicable to banks, financial institutions, financial intermediary institutions, collective investment schemes, money-changing establishments, and any other entity or institution that has obtained prior authorization from the Banque du Liban, when such institutions are in violation of any of the provisions of laws and regulations in force.

1.10 The Committee takes note of the statement in the fourth report (p. 5) that informal currency and asset transfer systems, such as hawala, do not exist in Lebanon and would like to know what measures have been implemented or are planned in order to ensure that such systems are not employed.

Response (provided by the Banque du Liban — report annexed):

Article 1 of Act No. 133 of 26 October 1999 defines the functions of the Banque du Liban as follows: They shall include "in addition to those defined in article 70 of the Code of Currency and Credit, the development and regulation of the following:

- Payment procedures and systems, and in particular transactions conducted by means of automated teller machines and debit, charge or credit cards;

- Currency transfers, including electronic transfers;

- Clearance and settlement transactions based on various means of payment and financial instruments including commercial stocks and bonds and other negotiable instruments."

The Banque du Liban monitors transfers conducted by institutions that have obtained its prior authorization. If it becomes evident that parties are engaging in transfers without having obtained the required authorization it refers the case to the competent judicial authorities to take the necessary steps.

The Banque du Liban has provided annexed copies of article 10 of the Code of Currency and Credit and Act No. 133 of 26 October 1999.

1.11 The Committee takes note of the legislation regarding the regulation of charitable organizations and would be pleased to receive a copy of the investigation reports prepared by Lebanon's security agencies by order of the Office of the Public Prosecutor at the Court of Cassation (fourth report, p. 5).

The Ministry of Foreign Affairs and Emigrants will forward the response to this question to the CTC when it has been received from the Ministry of Justice.

1.12 The Committee notes that Lebanon has no specific law on mutual assistance in criminal matters (third report, p. 8) and that such assistance is therefore contingent on the existence of a treaty between the States concerned. The Committee notes that, pursuant to paragraphs 2 (e) and (f) of resolution 1373 (2001), States should have specific legislation covering the modalities for mutual assistance in criminal matters, such as the transfer of criminal proceedings or of sentenced persons; the execution of letters rogatory; and the

recognition and validity of foreign criminal judgements. The Committee would appreciate an outline of any existing legal provisions that cover these modalities. In their absence, please outline what steps Lebanon intends to take in order to introduce such provisions into its domestic law.

Response (provided by the Ministry of the Interior and Municipalities):

The issue of amendment of current legal provisions is before Parliament.

1.13 The Committee takes note of the information provided with respect to the basis for cooperation with other countries under its domestic law. Could Lebanon please provide a few examples of cooperation to illustrate the effectiveness of existing mechanisms? The Committee would also appreciate a list of past instances of mutual legal assistance involving Lebanon, information on extraditions carried out and any additional information on planned measures for expanded cooperation with other countries.

Response:

The Ministry of Foreign Affairs and Emigrants will forward the response to this question to the CTC when it has been received from the Ministry of Justice.

1.14 With respect to the remaining international counter-terrorism conventions to which Lebanon is not a party, the Committee wishes to remind Lebanon, in connection with its reference to the Arab Convention on the Suppression of Terrorism, that accession to regional counter-terrorism conventions cannot be viewed as an alternative to becoming a party to and implementing in domestic law all the international conventions and protocols related to terrorism. In this regard, the Committee recalls that paragraph 3 (d) of resolution 1373 (2001) calls upon all States "to become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999". Therefore, the Committee would like to receive a progress report on the status of the legal procedures for Lebanon's becoming a party to the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism (second report, p. 20).

Response (the Ministry of Foreign Affairs and Emigrants):

The minutes of the Cabinet meeting held on 1 December 2005 record the Cabinet's decision to postpone discussion of Lebanon's accession to the International Convention for the Suppression of the Financing of Terrorism. According to the minutes of the meeting, the Ministry of Finance had reservations concerning the provisions of article 2, paragraph 1 (b) in connection with the struggle against foreign occupation.

With regard to the International Convention for the Suppression of Terrorist Bombings, Decree No. 15510 of 19 October 2005, signed by His Excellency the President of the Lebanese Republic, has been issued and referred to Parliament with a view to authorizing the Government to accede to that Convention.

1.15 The Committee would appreciate it if Lebanon would share with it any assessments or evaluations carried out by international or regional institutions

or organizations, including those related to operational measures, in connection with implementation of resolution 1373 (2001).

Response (Ministry of Foreign Affairs and Emigrants):

Lebanon views implementation by regional and international institutions of resolution 1373 (2001) as an ongoing process. The effort to achieve practical implementation of all clauses of the resolution must be pursued continuously in order to attain the goal of that resolution and of other relevant resolutions related to combating and suppressing terrorism.

Regionally

In view of Lebanon's membership and distinctive role in the regional organization of the League of Arab States, Lebanon considers it important to draw attention to the steps taken and decisions adopted by the Council of the League in the field of cooperative contributions to international counter-terrorism efforts. In this regard, the Council of the League, at the ministerial level, at its 125th regular session held in March 2005, took up the subject of establishing an Arab expert group charged with following up the implementation of resolution 1373 (2001) as an Arab counter-terrorism mechanism, including changing its name to the Arab Group of Experts on Counter-Terrorism, which would include all Arab States in its membership and whose reports and recommendations would be submitted to the Council of the League. In this regard Lebanon also sees a need to continue dialogue and contacts between the League of Arab States and the Security Council Counter-Terrorism Committee in order to overcome such difficulties as might stand in the way of implementing certain clauses, and affirms in this regard the recommendations issued by the Arab Group of Experts regarding proposed ways of overcoming difficulties and consequences arising from the implementation of resolution 1373 (2001).

Among procedural means relating to the implementation of resolution 1373 (2001), the Lebanese security agencies (the Directorate-General of the Internal Security Forces — service and operations branch) proposes the following measures for achieving the desired goals in the area of combating terrorist acts and stopping and preventing the funding thereof:

- Mobilizing Interpol and effecting genuine coordination among all States to collect as much information as possible on terrorist individuals and organizations;
- Establishing a specific mechanism to coordinate all efforts between all national and international security agencies and the international institutions involved in this issue;
- Orienting the media towards this goal, in view of their influence on the public and the major role they play in awareness-raising and education.

2. Implementation of resolution 1624 (2005)

Paragraph 1

2.1 What measures does Lebanon have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

Response:

The Ministry of Foreign Affairs and Emigrants will forward the response to this question to the CTC when it has been received from the Ministry of Justice.

2.2 What measures does Lebanon take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

Response (the Ministry of the Interior and Municipalities):

The Directorate-General of Public Security takes a series of measures with respect to persons about whom there is information linking them to terrorist activity. These range from preventive measures in cases where the information is unconfirmed (such as providing information on cross-border movements or placing under surveillance after entering the country) to operational measures in cases where the information is confirmed (such as barring entry, detention, and interrogation). All measures are taken in coordination with the competent judicial authority.

Paragraph 2

2.3 How does Lebanon cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

Response (the Ministry of the Interior and Municipalities):

The Directorate-General of Public Security is cooperating with other States to strengthen the security of international borders through the implementation of measures circulated by Interpol, measures to bar entry on the basis of confirmed and verified information from credible security agencies, and a training course for public security officers and personnel on the detection of fraudulent documents, part of which is conducted in conjunction with accredited embassies in Lebanon. There are investigative branches at border posts, including at the Rafik Hariri International Airport, whose task it is to ensure that no suspicious activity takes place and that no security lapses or attempts to violate the security of travellers occur.

The Directorate-General of Public Security is also continuing its efforts to achieve comprehensive border control by establishing a biometric programme after the necessary support has been secured.

2.4 What international efforts is Lebanon participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?

Response (Ministry of Foreign Affairs and Emigrants):

Because of its distinctive historical, geographical and structural situation, Lebanon plays a central role and combines a number of contradictions. Freedom of expression and speech is a basic component and among the cornerstones of political

and media activity in Lebanon. In spite of the polarization into which Lebanese society might fall, the result in Lebanon has always been to resort to dialogue. Lebanon has a firm faith that the process of dialogue will repudiate violence, terrorism and extremism.

Because of the foregoing, in the midst of political differences between extremes, Lebanon established a process of national dialogue that began in March 2006 and continues to seek a common denominator and produce a formula for political cooperation. The report of the Secretary-General of the United Nations of 18 April 2006 (S/2006/248) and Security Council resolution 1680 of 17 May 2006 commended this dialogue process, as exemplified in one of the resolution's preambular paragraphs: "Expressing full support for the Lebanese National Dialogue and commending all Lebanese parties for its conduct and for the consensus reached in this context on important matters."

At the same time, Lebanon is also diverse religiously, and out of bitter previous experience has established an Islamic-Christian Dialogue Committee in which all religions and sects are represented and which conducts awareness-raising activities and seminars on dialogue among religions and civilizations in Lebanon and abroad.

2.5 What steps is Lebanon taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

Paragraph 4

Response (Ministry of Foreign Affairs and Emigrants):

A committee made up of prominent judges and Members of Parliament is working to establish legislation to amend the Lebanese Penal Code in order to bring it into line with international counter-terrorism protocols and resolutions. Articles 317-318, in conjunction with articles 217-218 of the Penal Code cover penalties for incitement to crimes that undermine national unity, harm the good of the nation, or lead to terrorist acts.

2.6 What is Lebanon doing to ensure that any measures takea to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law, and humanitarian law?

Response (the Ministry of the Interior and Municipalities):

The Ministry of the Interior and Municipalities has instructed the Directorate-General of Public Security to enforce the laws in force protecting human rights. This applies to all detainees regardless of the grounds for arrest, whether terrorism charges or otherwise.